

DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES

PUBLIC ACCOMMODATIONS

Subchapter 1

Hotels, Motels, Tourist Homes, Retirement Homes,
Roominghouses and Boarding Houses

37.111.101 DEFINITIONS In addition to those definitions contained in 50-51-102, MCA, the following definitions apply to this subchapter:

(1) "Bedding" means mattresses, box springs, mattress covers, mattress pads, sheets, pillow slips, pillows, pillow covers, blankets, comforters, quilts and bedspreads.

(2) "Building authority" means the building codes bureau, Montana department of labor and industry, or a local government building inspector enforcing a local building code enforcement program certified by the department of labor and industry.

(3) "Department" means the department of public health and human services.

(4) "Establishment" means a hotel, motel, tourist home, roominghouse or retirement home.

(5) "Fire authority" means the state fire marshal or his authorized agent.

(6) "Fixtures" means a shower, bathtub, toilet, toilet seat, urinal, lavatory, kitchen sink, janitor and custodial sink, utensil sink and all exposed plumbing integral to them.

(7) "Floors" means sub-flooring and floor coverings of all rooms including stairways, hallways, and lobbies.

(8) "Furnishings" means cups, glasses, pitchers, utensils, draperies, curtains, blinds, light fixtures, lamps and lamp shades, chairs, tables, desks, shelves, books, magazines, bookcases, dressers, bedsteads, mattress springs other than box springs, towels, wash cloths, soap, toilet tissue, radios, television sets, coffee makers, water heaters, pictures, mirrors, cabinets, closets and refrigerators.

(9) "Guest" means each occupant of any unit of an establishment.

(10) "License" means a written instrument issued by the department authorizing the operation of an establishment.

(11) "Local health authority" means a local health officer, local sanitarian, or any other person authorized by the department.

(12) "Sanitarian" means the person who is qualified under Title 37, chapter 40, part 3, MCA, and represents the health officer.

(13) "Sleeping accommodation" means the provision of sleeping quarters and linen service or housekeeping service where the linen service and housekeeping service are provided by management or by the residents under the direct supervision of management. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 02 and 03 reserved

37.111.104 PRECONSTRUCTION REVIEW (1) Before construction

commences, plans for construction of a new establishment or for an addition to or an alteration of an existing establishment must be submitted to the department or local health authority for review and approval. Plans must include the following:

- (a) location and detail of storage rooms used for extra bedding and furnishings;
- (b) location and detail of janitorial facilities;
- (c) specifications for the water supply to serve the establishment unless the water supply has been previously approved by the department;
- (d) specifications for the sewage treatment and disposal system to serve the establishment unless the sewage treatment and disposal system has been previously approved by the department;
- (e) location and detail of laundry facilities including description of equipment, floor and wall finish material, and a flow chart indicating the route of laundry through sorting, washing, drying, ironing, folding and storage;
- (f) specifications for a swimming or spa facility to serve the establishment unless the swimming or spa facility has been previously approved by the department;
- (g) name of department-approved sanitary landfill which will receive solid waste from the establishment;
- (h) specifications for a food service to serve the establishment unless the food service has been previously approved by the department;
- (i) evidence of approval by the building authority;
- (j) evidence of approval by the fire authority; and
- (k) any other information requested by the department or the local health authority.

(2) Construction may not commence until all plans required by (1) of this rule have been approved by the department or local health authority. Construction must be in accordance with the plans as approved unless permission is granted by the department or local health authority to make changes.

(3) Approval will be granted for a period not to exceed 3 years, after which, if construction has not been completed, plans must again be submitted to the department or local health authority for re-evaluation. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.105 EXISTING BUILDING: CHANGE OF USE (1) An existing building may not be used as an establishment and the use of one type of establishment may not change to another type of establishment without the prior approval of the department or local health authority.

(a) When a proposal to use an existing building as an establishment or to change the use from one type of establishment to another involves structural modification, plans meeting the requirements of (1) of ARM 37.111.104 must be submitted to the department or local health authority for review and approval. If no structural modification is involved, the department or local health authority may waive the requirement for submission of plans if:

(i) an inspection by the department or local health authority indicates that the proposed establishment meets the requirements of this subchapter, and

(ii) the building and fire authorities approve the building or waive approval. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.106 LICENSURE, RENEWAL AND INSPECTION (1) Upon notification by the department that an application and fee have been received for a license for a previously unlicensed establishment, the local health officer, local health department sanitarian or sanitarian-in-training shall make a prelicensing inspection to determine compliance with the requirements of this subchapter.

(2) The local health officer, or a sanitarian or sanitarian-in-training employed by or contracted with the local board of health must inspect each licensed establishment within the jurisdiction of the local board of health to determine compliance with this subchapter at least once in every 12 months, unless that schedule is modified by signed agreement with the department.

(3) If the establishment is in compliance with this subchapter and the department does not receive notification of non-compliance from the building authority or fire authority, a license will be issued or renewed. (History: Sec. 50-51-103 and 50-51-303, MCA; IMP, Sec. 50-51-103, 50-51-301 and 50-51-303, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1994 MAR p. 2941, Eff. 11/11/94; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.107 PHYSICAL REQUIREMENTS (1) An establishment must comply with the following physical requirements:

(a) In addition to the requirements of this subchapter, compliance with the state building code and fire code is required.

(b) At least one storage room sufficient in size for the storage of extra bedding and furnishings must be provided.

(c) Adequate and convenient janitorial facilities including a sink and storage area for equipment and chemicals must be provided.

(d) All rooms must be provided with at least 10 foot-candles of light.

(e) Floors and walls in toilet and bathing rooms, laundries, janitorial closets, and similar rooms subject to large amounts of moisture must be smooth and non-absorbent.

(f) Floor and wall-mounted furnishings must be easily moved to allow for cleaning or mounted in such a manner as to allow for cleaning around and under such furnishings.

(g) Bathing facilities must be provided with anti-slip surfaces. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 08 through 14 reserved

37.111.115 WATER SUPPLY SYSTEM (1) The department hereby adopts and incorporates by reference ARM 17.38.207, stating maximum microbiological contaminant levels for public water supplies, and the following department of environmental quality publications setting construction, operation, and maintenance standards for spring, wells, and cisterns, respectively:

(a) Circular #11, "Springs";

(b) Circular #84-11, "Minimum Design Standards for Small Water Systems";

(c) Circular #17, "Cisterns for Water Supplies". Copies of ARM 17.38.207 and Circulars #11, #84-11, and #17 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) In order to ensure an adequate and potable supply of water, an establishment must either:

(a) connect to a water supply system meeting the requirements of ARM Title 17, chapter 38, subchapters 1, 2, and 5; or

(b) if the establishment is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including guests, staff, and residents; and an adequate public water supply system is not accessible; utilize a non-public system:

(i) whose construction and use meet those standards set in department of environmental quality circular #84-11; or

(ii) if construction of the establishment was commenced on or after June 28, 1985, which is designed by an engineer registered in Montana and determined by the department or the local health authority to provide assurance of an adequate and potable water supply equivalent to that in circular #84-11; or

(iii) if construction of the establishment was commenced prior to June 28, 1985, and utilizes a spring or cistern, which is operated and maintained in accordance with the standards set in either department of environmental quality circular #11 (for a spring) or circular #17 (for a cistern), whichever is applicable.

(3) If a non-public water supply system is used in accordance with (2)(b) above, an establishment must submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of public water supplies in order to determine that the water does not exceed the maximum microbiological contaminant levels stated in ARM 17.38.207, incorporated by reference in (1) above.

(4) An establishment must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 17.38.207, as incorporated by reference in (1) of this rule, or

(b) does not have the capacity to provide water adequate in quantity for drinking, cooking, personal hygiene, laundry, and water-carried waste disposal.

(5) Ice must be:

(a) obtained from a licensed supplier if it is not made from the establishment's water supply; and

(b) manufactured, stored, handled, transported and served in a manner which is approved by the department or local health authority as preventing contamination of the ice, and which meets the following specific standards:

(i) Ice must be stored in an automatic dispenser if:

(A) construction of the establishment was commenced on or after June 28, 1985, and dispensing of the ice is not under the direct control of the establishment's management; or

(B) in an establishment whose construction commenced prior to June 28, 1985, and in which dispensing of ice is not under the direct control of the establishment's management, the ice storage equipment fails and is replaced.

(ii) Where open bin ice storage is provided, an ice scoop must be readily available for use by guests or the management and stored either inside the bin or in a closed container protected from contamination.

(6) Ice storage bins may not be connected directly to any trap, drain, receptacle sink or sewer which discharges waste or to any other source of contamination.

(7) Handsinks and bathing facilities must be provided with water at a temperature of at least 100°F and not more than 120°F. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.116 SEWAGE SYSTEM (1) The department hereby adopts and incorporates by reference the following department of environmental quality publications setting construction and operation standards for sewage systems:

(a) Circular #84-10, "Sewers and Sewage Treatment for Multi-Family and Non-Residential Buildings"

(b) Circular #13, "The Sanitary Pit Privy." Copies of the above circulars may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) In order to ensure sewage is completely and safely disposed of, an establishment must:

(a) connect to a public sewage system meeting the requirements of ARM Title 17, chapter 38, subchapter 1; or

(b) if the establishment is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including guests, staff, and residents; and an adequate public sewage system is not available; utilize a non-public system whose construction and use meet the construction and operation standards contained in department of environmental quality circular #84-10, incorporated by reference in (1) of this rule.

(3) A sewage system design, other than the type described in this rule, may be utilized only if it is designed by an engineer registered in Montana and offers equivalent sanitary protection as determined by the department or local health authority.

(4) An establishment must replace or repair its sewage system whenever:

(i) it fails to accept sewage effluent at the rate of application;

(ii) seepage of effluent from, or ponding of effluent on or around, the system occurs;

(iii) contamination of a potable water supply or state waters is traced to effluent from the sewage system; or

(iv) a mechanical failure occurs, including electrical outage, or collapse or breakage of septic tank, inlet lines, or drainfield lines. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.117 SOLID WASTE In order to ensure that solid waste is safely stored and disposed of an establishment must:

(1) store all solid waste between collections in containers which have lids and are corrosion-resistant, flytight, watertight, and rodent-proof;

(2) clean all solid waste containers frequently;

(3) utilize exterior collection stands for the containers referred to in (1) of this rule which prevent the containers from being tipped, protect them from deterioration, and allow easy cleaning below and around them; and

(4) transport or utilize a private or municipal hauler to transport the solid waste at least weekly to a landfill site approved by the department in a covered vehicle or covered containers. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW,

37.111.121 LAUNDRY FACILITIES (1) Laundries operated in conjunction with, or utilized by, an establishment must be provided with:

(a) mechanical washer and hot air tumble dryer. Manual washing and line drying of bed linen, towels and washcloths is prohibited. Dryers must be properly vented to prevent maintenance problems.

(b) A hot water supply system capable of supplying water at a temperature of 54°C (130°F) to the washer during all periods of use.

(c) Separate area for sorting and storing soiled laundry and folding and storing clean laundry.

(d) Separate carts for transporting soiled and cleaned laundry.

(e) Handwashing facilities including sink, soap, and disposable towels. A soak sink may double as a handwashing sink.

(2) Sheets, pillow covers, towels and washcloths must be machine washed at a minimum temperature of 54°C (130°F) for a minimum time of 8 minutes and dried in a hot air tumble dryer or ironed at a minimum temperature of 150°C (300°F). (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.122 HOUSEKEEPING AND MAINTENANCE (1) An establishment must comply with the following housekeeping and maintenance requirements:

(a) In each establishment daily housekeeping and maintenance services must be provided.

(b) Each janitor room must be kept clean, ventilated and free from odors.

(c) Mop heads, when used, must be changed frequently using laundered replacements.

(d) Toilets, bathtubs, lavatories, and showers may not be used for washing and rinsing of mops, brooms, brushes, or any other cleaning devices.

(e) The transporting, handling and storage of clean bedding must be done in such a manner as to preclude contamination by soiled bedding or from other sources.

(f) Cleaners used in cleaning bathtubs, showers, lavatories, urinals, toilet bowls, toilet seats, and floors must contain fungicides or germicides.

(g) Deodorizers and odor-masking agents may not be used unless the room in which used is clean to sight and touch.

(h) Cleaning devices must be kept separate and used only as follows: Toilet bowl brushes, mops, sponges, must be only for cleaning toilet bowl and urinals. Cleaning devices used for lavatories, showers and bathtubs may not be used for any other purpose.

(i) Dry dust mops and dry dust cloths for cleaning purposes are prohibited.

Dusting and cleaning shall be accomplished using treated mops, wet mops, treated cloths, and moist cloths or other means approved by the department or health authority which will not serve to spread soil from one place to another.

(j) Establishments must be kept free of harborage for insects, rodents and other vermin.

(k) All bedding, towels, and wash cloths provided by management must be clean and in good repair. At least weekly, clean bed linens must be made available to each guest. At least daily, clean wash cloths and towels must be made available to each guest. Soiled linens, soiled wash cloths, or soiled towels are not to be left in units for subsequent guests.

(l) All furnishings, fixtures, floors, walls, and ceilings must be clean and in good repair.

(m) Cleaning compounds and pesticides must be stored, used, and disposed of in accordance with the manufacturer's instructions.

(n) Glasses, pitchers, ice buckets, and other utensils used for food or drink provided in units for use by guests may not be washed or sanitized in any lavatory or janitor sink. Approved facilities for washing, rinsing, and sanitizing glasses, pitchers, ice buckets, and other utensils must be provided. In absence of approved washing facilities, single service utensils must be used.

(o) All utensils used for food or drink provided in units for use by guests must be stored, handled, and dispensed in a manner which precludes contamination of the utensil prior to use by a guest. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.123 SWIMMING AND BATHING AREAS (1) The department hereby adopts and incorporates by reference ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10, stating construction and operating requirements for swimming pools and swimming areas. A copy of ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) The construction and operation of any swimming pool, hot bath, mineral bath, or public swimming place which serves an establishment shall be in accordance with Title 50, chapter 53, MCA, and ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.124 FOOD SERVICE REQUIREMENTS (1) Where a food service is operated as an integral part of an establishment, compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments is required.

(a) If the food service is available only to residents of the establishment, licensure as a food service establishment is not required. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1981 MAR p. 1898, Eff. 1/1/82; TRANS, from 16.10.626, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 25 through 29 reserved

37.111.130 GUEST REGISTRATION (1) In each establishment, a register of all guests, including name and home address of guest and unit to which the guest was assigned, must be maintained. (History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 31 through 34 reserved

37.111.135 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES (1) To qualify for reimbursement under 50-51-303, MCA, the local board of health must either enter into a written, signed cooperative agreement with the department that establishes the duties and responsibilities of the local board of health and the department consistent with this subchapter, or meet each of the following requirements:

(a) At least one sanitarian working with or for the local board of health must receive training from the department in public accommodation inspection techniques. The department is responsible for making training available on a periodic basis.

(b) The local board of health must ensure that the following are done by the local health officer, sanitarian, or sanitarian-in-training:

(i) Upon notification by the department or the establishment, a precicensing inspection is made to determine compliance with the requirements of this subchapter.

(ii) Each establishment within the jurisdiction of the local board of health is inspected at least once every 12 months, or on the schedule specified in a signed agreement with the department.

(iii) Quarterly inspection reports are submitted to the department within 10 days following the close of each quarter of the fiscal year (1st quarter--September 30; 2nd quarter--December 31; 3rd quarter--March 31; 4th quarter--June 30) on forms approved by the department.

(iv) All documentation of enforcement of this subchapter, including but not limited to inspection reports, consumer complaints, illness investigations, plans of correction, and enforcement actions, is retained for 5 years and copies of the documentation are submitted or otherwise made available to the department upon request.

(2) A failure by the local board of health to meet all of its responsibilities under the cooperative agreement or under (1)(a) and (b) above shall result in the withholding of funds from the local board reimbursement fund in an amount to be determined by the department. (History: Sec. 50-51-303, MCA; IMP, Sec. 50-51-303, MCA; NEW, 1994

MAR p. 2941, Eff. 11/11/94; TRANS, from DHES, 2001 MAR p. 2425.)